IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9026 OF 2003

Shankar Abaji Bhujbal & Ors. ..Petitioners.
Vs.
State of Maharashtra & Ors. ..Respondents.

...

Ms. Sumidha Dongre for the Petitioners.
Mr. A.P. Vanarase, AGP for the State.

CORAM : DR.D.Y.CHANDRACHUD, J.

12th April, 2006.

P.C.:

1. On the request of counsel appearing for the Petitioners and with the consent of the Learned AGP the petition is taken on Board for hearing and final disposal.

2. The grievance of the Petitioners is that the impugned order of the Additional Commissioner, Pune Division, Pune dated 23rd July, 2001 came to be passed without affording to the Petitioners a sufficient and adequate opportunity of being heard. Grounds 2, 3 and 4 of the Petition are as follows :

"2. The Respondent No.4 ought to have issued

notice to the petitioners or their the then advocate for hearing of the matter before passing the impugned order dated 23-07-2001 or before deciding the matter on merits and before closing the matter on merits for order.

3. The Respondent No.4 ought to have considered that even the Roznama does not show the date of decision of the Application / Appeal No.250 of 2000 i.e. date of decision 23-07-2001 and the last date reflected on the Roznama is 22-06-2001.

4. The Respondent No.4 ought to have considered that the signatures of the then Advocate for Petitioners is not reflected on the Roznama for the days 13-06-2001 and 22-06-2001, this fact clearly shows that no information, intimation or notice was given to the petitioner or their the then advocate for fixing the matter for hearing and before closing the matter for orders on merits. Therefore the impugned Judgment & Order was passed without giving opportunity of being heard to the petitioners. Therefore the impugned judgment & order is liable to be set aside & the matter is required to remand back to the Respondent No.4 for fresh disposal on merits after giving opportunity of being heard to the petitioners."

3. In my view, the ends of justice would be served if the Additional Commissioner, Pune Division, Pune is directed to pass fresh orders on the application filed by the Petitioners after giving to the Petitioners an opportunity of being heard. In order to facilitate a fresh decision, the impugned order dated 23rd July, 2001 (Annexure A-3) is quashed and set aside. It may be noted that in the affidavit that was filed by the Special Land Acquisition Officer on 6th September, 2005, in Civil Application 510 of 2004 it has been

stated that possession had not been taken. The Petition is accordingly disposed of by directing the Additional Commissioner, Pune Division, Pune to hear the application filed by the Petitioners (numbered as PNV/KV-3/APPEAL/250/2000) afresh. The Petitioners shall appear before the Additional Commissioner in person or through an authorized representative on 2nd May, 2006. The Additional Commissioner shall pass fresh orders preferably on or before 30th June, 2006. The Petition is accordingly disposed of.